

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**CRIMINAL ACTION NO. 3:11-CR-47-6
(BAILEY)**

JEROME HOLDEN CUNNINGHAM,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge David J. Joel. By Local Rule, this action was referred to Magistrate Judge Joel for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Joel filed his R&R on October 6, 2011 [Doc. 154]. In that filing, the magistrate judge recommended that this Court deny as moot defendant Jerome Holden Cunningham's Motion to Specify Intent [Doc. 126] and Motion to Suppress [Doc. 127].

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*


review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Joel's R&R were due by October 11, 2011, at 12:00 p.m. ([Doc. 154] at 3-4). That deadline has passed without any objections filed. Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review, it is the opinion of this Court that the magistrate judge's Report and Recommendation **[Doc. 154]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. Accordingly, this Court hereby **DENIES AS MOOT** the defendant's Motion to Specify Intent **[Doc. 126]** and Motion to Suppress **[Doc. 127]**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record.

DATED: October 11, 2011.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE